IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 521 OF 2004

JOSE ARNALDO FRANCISCO AFONSO PRAZARES DA COSTA ....Petitioner

Versus

ANTHONY FRANCIS DE SOUZA AND 2 ORS., ...Respondents

Shri Dajvip V.Patkar, advocate for the petitioner
Shri N. Sardessai advocate for the respondent no.1

Coram:- V.C. DAGA, J.

Date:- 10th August, 2006

P.C:

Heard.

Rule, returnable forthwith.

By consent of parties petition is taken up for hearing.

Shri N. Sardessai waives service on behalf of the respondent no.1.

Petitioer is permitted to delete respondents no.2 and 3. Amendment to be carried out during the course of the day.

This petition is directed against the order dated 20.08.2004 passd in Special Civil Suit No.3/2001/A whereby application Exhibit 37 moved under Order 32 Rule 3 read with Rule 15 of the Code Civil Procedure, 1908, for appointment of guaridan ad-litem of the defendant no.4 came to be rejected. This order is a subject matter of challenge in this petition filed under Article 227 of the Constitution of India.

Having heard the rival parties and having seen the documents filed on record together with the medical certificate issued by Dr.S.N. Dharwadker it is clear that the defendant no.4 is not of sound mind and he is not in a position to take care of his litigation. In the above view of the matter it would be in the interest of justice to appoint Shri Gil Silveira, son of Afonso Calisto J. da Silveira as guardian ad-litem for the peitioner/

defendant No.4 for the purpose of contesting Special Civil Suit No.3/2001/A pending in the Court of Civil Judge, Senior Division, Mapusa.

In the above view of the matter, the impugned order dated 20.8.2004 is quashed and set aside. Rule is made absolute in terms of this order with no order as to costs.

V.C. DAGA, J.

ap/-